

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201266509
Issue No.: 3025
Case No.: [REDACTED]
Hearing Date: August 23, 2012
County: Wayne (43)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on August 23, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Direct Support Services (DSS)? | |

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for benefits received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input checked="" type="checkbox"/> Medical Assistance (MA). | <input type="checkbox"/> Child Development and Care (CDC). |
| <input type="checkbox"/> Direct Support Services (DSS). | |

2. On July 17, 2012, the Department
 - denied Claimant's FAP application closed Claimant's case
 - due to failure to establish alien status.

3. On July 17, 2012, the Department
 - denied Claimant's MA application closed Claimant's case
 - due to freeze on enrollment for the Adult Medical Program and Claimant not being blind, disabled, pregnant, parent/caretaker-relative of a dependent child, or aged.

4. On July 17, 2012, the Department sent
 - Claimant Claimant's Authorized Representative (AR)
 - notice of the denials. closure.

5. On July 20, 2012, Claimant filed a hearing request, protesting the
 - denial of the application. closure of the case.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through Rule 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Direct Support Services (DSS) is administered by the Department pursuant to MCL 400.57a, *et. seq.*, and Mich Admin Code R 400.3603.

Additionally, on July 3, 2012, Claimant applied for FAP and MA. On July 17, 2012, the Department denied his application.

FAP Application

A person must be a U.S. citizen or have an acceptable alien status to receive FAP benefits, and individuals who do not meet this requirement are disqualified. BEM 225 (January 1, 2012), p 1. Acceptable status includes individuals who are permanent resident aliens and have been in the U.S. for five years. BEM 225, pp 3, 8. Permanent resident alien status is verified by one of the following: (i) I-151 issued before June 1978 or I-551; (ii) I-327 (unexpired); (iii) I-94 stamped "Processed for I-551"; or (iv) passport stamped "Processed for I-551 Temporary Evidence of Lawful Admission for Permanent Residence." BEM 225, p 22.

In this case, Claimant testified that he is a permanent resident and has resided in the U.S. for 30 years. He testified that after his FAP case closed, effective February 29, 2012, on the basis that he had failed to verify his alien status, he reapplied several times, including on July 3, 2012, and was denied each time. The Department testified that Claimant's applications were denied because he had failed to present his permanent resident card with his picture identification. Claimant explained that he had a permanent resident card but had lost it around July 2011. While he was getting a replacement he submitted a copy of an I-797C, which he contended was a substitute permanent resident card. Department policy provides that the I-797C Notice of Action is issued to applicants/petitioners to acknowledge receipt of applications, convey statuses, etc. and that it verifies permanent resident alien status when it "acknowledges both receipt of application for a replacement I-551 and receipt of the old I-551." BEM 225, p 30.

In this case, a copy of the I-797C dated June 12, 2012 that Claimant submitted with his July 3, 2012 FAP application was introduced into evidence. The document is titled "Appointment Notice" and indicates that the case type was an application to replace

alien registration card. It does not indicate the receipt of an old permanent resident card (I-551) as required under BEM 225. Thus, it was not sufficient to verify Claimant's permanent resident alien status. Furthermore, the document states at the top in bold letters that "This notice does not grant any immigration status or benefit." Additionally, the United States Citizenship and Immigration Services' (USCIS) website provides that, while Form I-797C may be used by some state benefit-granting agencies as collateral evidence for awarding a benefit the state administers, the USCIS advises those agencies that "Form I-797C is only a receipt proving an applicant has submitted a benefit request; USCIS has not determined whether that applicant is eligible for an immigration benefit." <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=9d4f068d9c456310VgnVCM100000082ca60aRCRD&vgnnextchannel=db029c7755cb9010VgnVCM10000045f3d6a1RCRD>.

Under these facts, the Department acted in accordance with Department policy when it denied Claimant's July 3, 2012 FAP application on the basis that Claimant had failed to verify his status as a permanent resident.

MA Application

In the July 17, 2012 Notice of Case Action sent to Claimant, the Department denied Claimant's MA application because Claimant was not "blind, disabled, pregnant, parent/caretaker[-]relative of a dependent child or meet age requirements" and because the Adult Medical Program (AMP) was closed to new enrollments.

At the hearing, the Department testified that there was an enrollment freeze for AMP. Thus, the Department acted in accordance with Department policy when it denied Claimant's application for MA with respect to AMP coverage. See BEM 640 (October 1, 2010), p 1.

Individuals can receive MA coverage under an SSI-related or a FIP-related category BEM 105 (October 1, 2010), p 1. SSI-related MA is available to an individual who is aged (65 or over), blind, disabled, entitled to Medicare or formerly blind or disabled. BEM 105, p 1. FIP-related MA is available to an individual who has dependent children, is the caretaker relative of dependent children, is under age 21, or is pregnant or recently pregnant. Based on Claimant's testimony at the hearing, Claimant did not fit under either MA category. As such, the Department acted in accordance with Department policy when it denied his MA application.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

for: AMP FIP FAP MA SDA CDC DSS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly. did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC DSS decision is AFFIRMED REVERSED for the reasons stated on the record.



Alice C. Elkin
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: August 29, 2012

Date Mailed: August 29, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases).

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/hw

cc:

